IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr. Appeal No. 350 of 1999

Date of Decision: April 3, 2006.

State of H.P …Appellant.

Versus.

Chaman Lal .. Respondent.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for Reporting?

For the Appellant(s): **Mr. J.S.Guleria, Law Officer.**

For the Respondent(s): **Mr. Sandeep Vashisht, Advocate.**

Deepak Gupta, J. (Oral).

This appeal by the State is directed against the judgment of the Additional Chief Judicial Magistrate, Ghumarwin in case No.106/1 of 1994, decided on 27.2.1999, whereby he has acquitted the accused Chaman Lal of the charge levelled against him that he had committed offences under Section 279 and 337 of the Indian Penal Code.

The prosecution case in brief is that on 27.3.1994 PW1 Suresh Chand was standing outside the shop of Madan Lal. According to the prosecution, the accused Chaman Lal was driving truck No.HPM-1472 at a high speed in a rash and negligent manner and struck against the complainant Suresh Kumar causing simple injuries to him. On the

aforesaid allegations, FIR Ex.PW5/A was lodged against the respondent-accused and the police investigated the case. The accused was challaned for having committed the offence. He pleaded not guilty and claimed trial.

The prosecution examined as many as 10 witnesses in support of its case. The case of the accused is of denial simpliciter. The learned trial court has acquitted the accused. Hence the present appeal by the State.

PW1 Suresh Kumar who was the injured stated that he was standing outside the shop of Madan Lal when the accused drove the truck in a rash and negligent manner and struck against him causing injuries on his foot. According to him, the incident took place at about 4.30 p.m. at village Ladraur. In cross-examination, however, he admitted that prior to the report lodged by him, the accused had already filed an FIR against him (PW1 Suresh Chand). This FIR was lodged against him for having caused injuries to Chaman Lal in a fight. PW2 Onkar Chand has also supported PW1. In cross-examination he has admitted that a quarrel took place between Suresh Chand and Chaman Lal in his presence. PW3 Madan Lal did not support the prosecution and in fact stated that the truck was being driven at a normal speed.

PW6 Subhash Chand who is stated to be an eye witness in examination-in-chief does state that the truck was being driven in a rash and negligent manner. However, in cross-examination he states

that he did not actually see the accident. Therefore, it is clear that whereas PW1 and PW2 have stated that the vehicle was being driven in a rash and negligent manner, this fact is not supported by PW3 Madan Lal who clearly states that the vehicle was being driven in a normal speed. The doctor has also opined that the injuries found on the person of the injured PW1 could have been caused by a fall.

In my opinion, the injuries found on the person of PW1 Suresh Chand are so minor in nature that they could not have been caused by a truck which was moving at a high speed. In case the injuries had been caused by a truck which was moving at a high speed, the same would have been much more serious in nature. The prosecution has failed to prove that the accident occurred due to rash and negligent driving of the accused.

In view of the above discussion, I find that there is no infirmity in the judgment of the trial Court and the respondent-accused has rightly been acquitted. No interference is called for and the appeal is dismissed. Bail bonds are discharged.

April 3, 2006. (Deepak Gupta), J.
s.